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# MONTANA RETIREMENT LAWS

RELATING TO  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM



COMPILED FOR THE  
BOARD OF ADMINISTRATION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

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## PUBLIC EMPLOYEES' RETIREMENT ACT

Note: The Public Employees' Retirement Act is compiled in Title 68, chapters 15 through 35, Revised Codes of Montana, 1947.

### CHAPTER 15—PUBLIC EMPLOYEES' RETIREMENT SYSTEM—DEFINITIONS AND GENERAL PROVISIONS

#### Section

- 68-1501. Purpose of act.  
68-1502. Retirement system created.  
68-1503. Definitions.  
68-1504. Short title.

**68-1501. Purpose of act.** The purpose of this act is to effect economy and efficiency in the public service by providing a means whereby employees who become superannuated or otherwise incapacitated may, without hardship, or prejudice, be replaced by more capable employees, and to that end providing a retirement system consisting of retirement compensation and death benefits.

**History:** En. 68-1501 by Sec. 2, Ch. 323, L. 1973.

#### Title of Act

An act for the codification and general revision of the laws relating to the public employees' retirement system and re-

pealing sections 68-101, 68-102, 68-201, 68-202, 68-203, 68-301, 68-302, 68-303, 68-401 through 68-405, 68-501, 68-601, 68-602, 68-603, 68-701 through 68-710, 68-801, 68-802, 68-901, 68-902, 68-1001 through 68-1005, 68-1101, 68-1201 and 68-1301 through 68-1320, R. C. M. 1947.

**68-1502. Retirement system created.** A retirement system is created and established to become effective July 1, 1945, and to be known as the public employees' retirement system.

**History:** En. 68-1502 by Sec. 3, Ch. 323, L. 1973.

**68-1503. Definitions.** Unless the context requires otherwise, in this act:

- (1) "Retirement system" means the public employees' retirement system created by this act.
- (2) "Head of department" means the head of any department, institution or branch of the state service which directly pays salaries out of its income or which prepares, approves and submits salary statements

of its employees to the department of administration, state auditor and state treasurer for payment.

(3) "Member" means any person included in the membership of the retirement system set forth in section 68-1602 and not excluded in section 68-1603 or 68-2510.

(4) "Board" means the board of administration provided for in section 82A-210.

(5) "Employee" means any person employed by an employer in any capacity whatever and whose salary is paid either by warrant of the employer or from the fees or income of any department or agency of the employer. "Employee" means further any person deemed such pursuant to section 68-2510.

(6) "Retirement fund" means the public employees' retirement account in the agency fund.

(7) "Service" means employment of an employee, except as provided in sections 68-1604 and 68-1605.

(8) "Prior service" shall mean all service rendered as an employee of the state before July 1, 1945, and all service rendered as an employee of a contracting employer before July 1, 1947. Prior service includes all service rendered prior to July 1, 1945, as a member of the legislative assembly or lieutenant governor of the state of Montana.

(9) "Beneficiary" means the person so designated pursuant to section 68-2401.

(10) "Compensation" means remuneration paid out of funds controlled by an employer. The compensation of each member of the legislative assembly and the lieutenant governor of the state of Montana for any year shall be deemed to be that portion of the product of the daily compensation for such position multiplied by three hundred sixty (360), upon which such member elects to pay normal contributions during the year.

(11) "Final compensation" means a member's highest average annual compensation during any three (3) consecutive years of membership service.

(12) "Regular interest" means interest at the rate set from time to time by the board.

(13) "Normal contributions" means contributions required by members under this act and any optional contributions, made under the provisions of sections 68-1605 and 68-1906.

(14) "Additional contributions" means contributions by members under the provisions of section 68-1903.

(15) "Accumulated normal contributions" means the sum of all the normal contributions standing to the credit of a member's individual account without interest.

(16) "Accumulated additional contributions" means the sum of all the additional contributions standing to the credit of a member's individual account, together with the regular interest thereon.

(17) "Accumulated contributions" means the sum of accumulated normal contributions and accumulated additional contributions.

(18) "Pension" means payments for life derived from contributions made from the state controlled funds, or in the case of members from contracting employers, from the funds of such contracting employers, as provided in this act.

(19) "Annuity" means payments for life derived from contributions made by a member as provided in this act.

(20) "Retirement allowance" means the periodic benefit payable following service, early or disability retirement.

(21) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables in use by the system.

(22) "Actuary" means the actuary retained by the board in accordance with section 68-1804.

(23) "Benefit" means the retirement allowance, survivorship allowance, death benefit or refund of accumulated contributions provided by this act.

(24) "Contracting employer" means any political subdivision or governmental entity which has contracted to come into the system.

(25) "Employer" means the state of Montana, its university or any of the colleges, schools, components or units thereof for the purposes of this act, or any political subdivision or governmental entity which has contracted to come into the system.

(26) "Membership service" means service with respect to which normal contributions and employer contributions are paid. A member of the legislative assembly and a lieutenant governor of the state of Montana shall be credited with membership service for that portion of each year for which he pays normal contributions pursuant to section 68-1503 (10).

(27) "Survivorship allowance" means payments for life to the beneficiary of a deceased member as provided in Title 68, chapter 23.

(28) "Creditable service" means the aggregate of membership service and prior service. A member employed on a part-time basis shall receive credit for a year of service for each fiscal year during which such member was employed throughout the year and was engaged in his duties the full amount of time he was required by his employment to be so engaged.

(29) "Employer contributions" means payments to the retirement fund from appropriations of the state of Montana pursuant to section 68-2504 and from contracting employers pursuant to the contracts between them and the board.

(30) "Written application" means a written instrument duly executed and filed with the board and containing all information required by the board, including such proofs of age as the board shall deem necessary.

(31) "Retirement" means withdrawal from active service with a retirement allowance granted under the provisions of this act.

(32) "Disability" and "incapacity for performance of duty" referred to herein as a basis of retirement, means disability of permanent duration or disability of extended and uncertain duration, as determined by the board on the basis of competent medical opinion.

(33) "Fiscal year" means any year commencing with July 1 and ending June 30 next following.

History: En. 68-1503 by Sec. 4, Ch. 323, L. 1973.

**68-1504. Short title.** This act may be cited as "The Public Employees' Retirement System Act."

**History:** En. Sec. 1, Ch. 323, L. 1973.

## CHAPTER 16—MEMBERSHIP—SERVICE CREDITS

## Section

- 68-1601. Membership.
- 68-1602. Exclusions.
- 68-1603. Termination of membership.
- 68-1604. Absence not included in time of service.
- 68-1605. Absence in military service.
- 68-1605.1. Election to qualify military service for full credit.
- 68-1606. Absence due to illness or injury.
- 68-1607. Qualification of service with contracting employer.
- 68-1608. Qualification of prior service not previously credited.

**68-1601. Membership.** (1) All employees shall become members on the first day of employment. Each employee shall file with the board of administration such information affecting his status as a member of the retirement system as the board may require.

(2) Every employee who re-enters service shall become a member unless he has had an original election of exemption from membership and his service was not interrupted by a break of more than one (1) month. A seasonal employee who has had an original election of exemption from membership will not be subject to the requirement regarding the break in service while continuing in his original employment and employed on a seasonal basis, but upon termination of employment to accept new employment or absence of more than one (1) month in returning to original employment in any ensuing season, such a seasonal employee shall become a member of the retirement system upon re-entry.

(3) Time during which an employee of a school district is absent from service during official vacation shall be counted as service in determining eligibility for membership under this act.

**History:** En. 68-1601 by Sec. 5, Ch. 323, L. 1973.

**68-1602. Exclusions.** The following persons shall not become members of the retirement system:

(1) elective officers who have not filed with the board of administration written requests to become members; provided that any person so excluded from membership may later become a member by otherwise becoming an employee or by written request after a subsequent election to office; and provided further that if he shall affirmatively exercise the option, the contributions of the employer, because of his membership, shall be the same as they would have been had he not been so excluded;

(2) inmates of state institutions who are allowed compensation for such service as they are able to perform;

(3) persons in state institutions principally for the purpose of training, but who receive compensation;

(4) independent contractors unless written contract specifies the creation of an employer-employee relationship for purposes of retirement coverage under the Public Employees' Retirement System Act;

(5) employees serving in employment which does not exceed the equivalent of sixty (60) working days in any fiscal year;

(6) employees in service on July 1, 1945, or prior thereto who filed with the board of administration an election not to become members; provided, any person so excluded from membership by his own election may become a member by meeting the requirements of the balance of this subsection. Such a person must file an election to become a member with the board of administration no later than July 1, 1975; provided, that any such person who is not an employee on July 1, 1974, may make such filing no later than one (1) year after subsequently becoming an employee. In either event, such person must thereupon pay to the retirement system the amount which he and his employer would have contributed had he not been so excluded plus interest which would have accumulated thereon. All benefits payable thereafter to such person shall be the same as if such person had never filed an election not to be a member;

(7) persons directly appointed by the governor, who do not file with the board of administration an election in writing to become members;

(8) persons who are members of any other retirement or pension system supported wholly or in part by funds of the United States government, any state government or political subdivision thereof and who are receiving credit in such other system for service, it being the purpose of this section to prevent a person from receiving credit for the same service in two (2) retirement systems supported wholly or in part by public funds, and no person shall receive such credit under any circumstances; any member of the retirement system who, because of his employment by the state, shall be required to become a member of any such other systems, shall be considered solely for the purposes of making normal contributions as permanently separated from service; the accumulated contributions of any member who shall have died after becoming a member of such other system and before receiving said accumulated contributions, shall be paid to the beneficiary nominated by him to receive any death benefit payable under section 68-2301; employer contributions on the basis of compensation earned by members after the effective date of termination of membership herein because of the membership in such other system, shall be repaid to the employer; for the purpose of this section, persons receiving pensions, retirement allowances or other payments, from any source, on account of employment other than as an employee as defined in this act, shall not be considered, because of such receipt, members of any other retirement or pension system;

(9) court commissioners or appointive members of any board or commission who serve the state or any contracting employer intermittently and who are paid on a per diem basis;

(10) persons who become employees after they have reached their sixtieth birthday and have no creditable service in this system, and who do not file with the board of administration an election to become members;

(11) employees of county hospitals or county rest homes in the sixth and seventh class counties unless they elect to file with the board of administration an election in writing to become members.

History: En. 68-1602 by Sec. 6, Ch. 323, L. 1973.

**68-1603. Termination of membership.** If any part of a member's accumulated normal contributions are refunded pursuant to section 68-1905, he ceases to be a member and all membership service to his credit is canceled. Any person who is retired ceases to be a member.

History: En. 68-1603 by Sec. 7, Ch. 323, L. 1973.

**68-1604. Absence not included in time of service.** Except as provided in section 68-1605 and 68-1606, time during which a member is absent from compensated employment with an employer shall not be allowed in computing service.

History: En. 68-1604 by Sec. 8, Ch. 323, L. 1973.

**68-1605. Absence in military service.** Any period of absence from compensated employment with an employer occurring either during a war involving the United States as a belligerent or in any other national emergency, and for ninety (90) days thereafter for one of the following reasons shall be considered as service, for the purpose of qualification for retirement and death benefits, but not for calculation of retirement benefits:

(1) by reason of having been ordered on duty with the armed forces of the United States;

(2) by reason of voluntary service in said forces or on ships operated by or for the United States government; or

(3) by reason of direct assignment to the department of war or defense for duties pursuant to the national defense efforts where a leave of absence has been granted by the employer.

Any member so absent shall have the right to contribute to the retirement system, either during his period of absence or upon his return to service, at times and in the manner fixed by the board of administration, amounts equal to the contribution which would have been made by him to the system on the basis of his compensation at the commencement of his absence. If he does so contribute he shall receive credit for service for such time in the same manner as if he had not been absent from service. Whenever a member elects to continue his contributions the employer shall thereupon contribute an amount equal to what its employer contributions would have been had the member not been absent from service.

Any member so absent shall lose the right to contribute under this section if all of his accumulated normal contributions are refunded pursuant to section 68-1905.

History: En. 68-1605 by Sec. 9, Ch. 323, L. 1973.



**68-1605.1. Election to qualify military service for full credit.** A member with ten (10) years or more of state service credited under this act may at any time prior to retirement make a written election with the board to qualify all or any portion of his active service in the armed forces of the United States for the purpose of calculating retirement benefits up to a maximum of five (5) years if he is not otherwise eligible to receive credit for this same service pursuant to section 68-1605. To qualify this service he must contribute to the retirement fund the amount determined by the board to be due based on his compensation and normal contribution rate as of his eleventh year and as many succeeding years as are required to qualify this service with interest from the date he becomes eligible for this benefit to the date he so contributes. He may not qualify more of this service than he has state service in excess of ten (10) years.

**History:** En. 68-1605.1 by Sec. 10, Ch. 323, L. 1973.

**68-1606. Absence due to illness or injury.** Time during which a member is absent from service by reason of injury or illness determined within one (1) year after the end of such absence as arising out of and in the course of his employment shall be considered as spent in service for the purpose of qualification for retirement benefits or survivorship allowances, but not for the calculation of such benefits.

**History:** En. 68-1606 by Sec. 11, Ch. 323, L. 1973.

**68-1607. Qualification of service with contracting employer.** Subject to the provisions of this section, any person who has service with a contracting employer which is not creditable service may convert all or a portion of such service to membership service by filing written notice thereof with the board of administration no later than July 1, 1975; provided that any such person who is not a member on July 1, 1974, may make such filing no later than one (1) year after subsequently becoming a member. In either event, such person must pay to the retirement system the sum of the amount which he and his employer would have contributed during the period of service so converted if the employer had then been a contracting employer and the interest which would have accumulated thereon to the time of such payment; provided, that the employer may pay the employer's portion including accrued interest. Payment may be made in one sum at the time of such filing or on an installment basis thereafter, except that failure to make installment payments of at least ten per cent (10%) of compensation in any payroll period thereafter shall forfeit such person's right to make any further installments.

**History:** En. 68-1607 by Sec. 12, Ch. 323, L. 1973.

**68-1608. Qualification of prior service not previously credited.** Credit for any prior service not previously granted shall be granted to a member upon his filing written notice thereof with the board of administration

no later than July 1, 1975; provided, that any such person who is not a member on July 1, 1974, may make such filing no later than one (1) year after subsequently becoming a member and further provided he otherwise has not less than ten (10) years of creditable service of which not less than three (3) years have been as a contributing member of the retirement system. Proper certification of such service must be furnished.

History: En. 68-1608 by Sec. 13, Ch. 323, L. 1973.

#### CHAPTER 17—CONTRACTS WITH POLITICAL SUBDIVISIONS—ELECTIONS

##### Section

- 68-1701. Contracts with political subdivisions—election—ballot.
- 68-1702. Request by individual employee for employer to participate.
- 68-1703. Conversion of local or state retirement plan.
- 68-1704. Tax levy to meet employer's obligations.

**68-1701. Contracts with political subdivisions—election—ballot.** Any municipal corporation, county or public agency in the state may become a contracting employer and make all or specified groups of its employees members of the retirement system by a contract entered into between the board and the legislative body of said contracting employer, subject to the provisions of this act. The contract may include any provisions which are consistent with this act and necessary in the administration of the retirement system as it affects the contracting employer and its employees. The approval and termination of the contract shall be subject to the following provisions, in addition to the other provisions of this act.

(1) The legislative body of the contracting employer shall adopt a resolution giving notice of intention to approve the contract and containing a summary of the major provisions of the retirement system. The contract shall not be approved unless the employees proposed to be included in the retirement system adopt the proposal by a majority affirmative vote in a secret ballot. The ballot at such election shall include the summary of the retirement system as set forth in the resolution. The election shall be conducted as prescribed by the legislative body of the contracting employer. Approval of the contract shall be by ordinance adopted by the affirmative vote of two-thirds (2/3) of the members of the legislative body, not less than twenty (20) days after the adoption of the resolution or by an ordinance adopted by a majority vote of the electorate of the contracting employer voting thereon.

(2) The contract shall specify that all employees of the contracting employer or such groups of employees as agreed to between the board and the contracting employer shall become members. The groups of employees to be included shall be by departments, duties, age or other similar classifications and not by individual employees. The board shall have the right to disapprove any classification into groups if in its opinion said classification affects adversely the interest of the retirement system. Membership in the retirement system shall be compulsory for all employees included under the contract.

(3) The contract may be amended in the manner prescribed in this section for the original approval of contracts. Groups of excluded employees may be subsequently included by amendment.

History: En. 68-1701 by Sec. 14, Ch. 323, L. 1973.

**68-1702. Request by individual employee for employer to participate.** Any employee who has continuously been, for a period of at least two (2) years, an employee of a municipal corporation, county or other public agency of this state which is not a contracting employer may advise the legislative body of his employer, in writing, that he wishes to participate in the retirement system. Within thirty (30) days after receipt of such written request, the legislative body shall thereupon adopt the resolution of intention and take such action as provided for in section 68-1701.

History: En. 68-1702 by Sec. 15, Ch. 323, L. 1973.

**68-1703. Conversion of local or state retirement plan.** Should the legislative body of any city, county or public agency having an existing retirement, pension or annuity fund or system, hereafter referred to as the local system, desire to make the members of the local system members of the public employees' retirement system, it may enter into a contract for that purpose with the board of administration in the manner provided in section 68-1701 provided, however, that the employees voting as provided in subsection (1) of section 68-1701 shall be limited to active members of the local system and approval shall require an affirmative vote of two-thirds (2/3) of such employees.

All active members of the local system shall become members of the retirement system and shall no longer be members of the local system. The pensions being paid to pensioners or annuitants of the local system on the effective date of the contract shall be continued and paid at their existing rates by the public employees' retirement system. The liability for such pensions shall be computed by the actuary and charged to the contracting employer. All cash and securities held by the local system shall be transferred to the retirement system as of the effective date of the contract and credited to the employer. The value of said securities shall be determined by the board of administration.

The trustees or other administrative head of the local system as of the effective date of the contract shall certify the proportion, if any, of the funds of the system that represents the accumulated contributions of the active members, and the relative shares of the members as of that date. Such shares shall be charged to the employer and credited to the respective individual accounts of such members in the public employees' retirement system and administered as if said contributions had been made during membership in the retirement system. Any excess of employer credits over charges under this section will be offset, with interest, against future required employer contributions. Any excess of employer charges over credits under this section shall be payable by the contracting employer, with interest, on a monthly basis as specified in the contract.

History: En. 68-1703 by Sec. 16, Ch. 323, L. 1973.

**68-1704. Tax levy to meet employer's obligations.** If the contributions required to the retirement system exceed the funds available to a contracting employer from general revenue sources, the contracting employer shall have authority to budget, levy and collect annually a special tax upon the assessable property of the contracting employer in the number of cents per one hundred dollars (\$100) of assessable property as will be sufficient to raise the amount estimated by the legislative body to be required to provide sufficient revenue to meet the obligation of the contracting employer to the retirement system. The rate of taxation may be in addition to the annual rate of taxation allowed by law to be levied by the contracting employer. Any person who is a member or beneficiary of the retirement system on account of the participation of the contracting employer shall have the right to maintain the appropriate action or proceeding to require performance of the duty imposed on the legislative body by this section.

History: En. 68-1704 by Sec. 17, Ch. 323, L. 1973.

#### CHAPTER 18—BOARD OF ADMINISTRATION

##### Section

- 68-1801. Location of board—quorum—appointment of committee—election of president.  
 68-1802. Compensation and expenses of board members.  
 68-1803. Rules and regulations—records—annual report by board.  
 68-1804. Employment of actuary—biennial investigation and valuation.

**68-1801. Location of board—quorum—appointment of committee—election of president.** The board shall maintain its office in the city of Helena. A quorum of the board shall be three (3) members. The board shall elect one of its members president. The board may appoint a committee of one or more of its members, which shall have authority to perform routine acts, such as retirement of members and fixing of retirement allowances, approval of death claims and correction of records necessary in the administration of the system in accordance with the provisions of this act and rules and regulations of the board. The department of administration shall appoint and fix the compensation of the administrator and other necessary employees. The attorney general shall be the legal counsel for the board.

History: En. 68-1801 by Sec. 18, Ch. 323, L. 1973.

**68-1802. Compensation and expenses of board members.** The actual and necessary expenses of members of the board shall be reimbursed by the retirement system. Those members of the board who are not members of the retirement system shall be entitled to receive in addition to actual and necessary expenses compensation at the rate of twenty-five dollars (\$25) per day. All expenses of the administration of this act in excess of the amounts provided by the membership fees contributed pursuant to section 68-1904 shall be a charge on the appropriation made from the general fund of the state.

History: En. 68-1802 by Sec. 19, Ch. 323, L. 1973.

**68-1803. Rules and regulations—records—annual report by board.** (1) The board of administration may establish such rules and regulations as it deems proper for the administration and operation of the retirement system and enforcement of this act, subject to its limitation. The board shall determine who are employees within the meaning of this act. The board shall be the sole authority under this act as to the conditions under which persons may become members and receive benefits under the retirement system. The board shall determine and may modify allowances for service and disability under this act. The board shall establish those uniform rules and regulations as are necessary to determine credit for fractional years of service. The board shall maintain such records and accounts it determines necessary for the administration of this act. Upon the basis of the findings of the actuary pursuant to section 68-1804, the board shall adopt those actuarial tables and those rates of regular interest it determines appropriate to comply with the provisions of this act.

(2) As soon as practical after the close of each fiscal year, the department of administration shall file with the governor a report of its work for that fiscal year. The report shall include a statement as to the accumulated cash and securities in the retirement fund as certified by the state treasurer and the board of investment. The report shall also include the most recent unpublished report of the actuary of the actuarial valuation of the assets and liabilities of the system.

History: En. 68-1803 by Sec. 20, Ch. 323, L. 1973.

**68-1804. Employment of actuary—biennial investigation and valuation.** The board shall retain on a full-time basis, a competent actuary who is a member of the American academy of actuaries and who is familiar with public systems of pensions. The actuary shall be the technical advisor of the board on matters regarding the operation of the system. Biennially he shall make an actuarial investigation into the suitability of the actuarial tables used by the system and an actuarial valuation of the assets and liabilities of the retirement system. From time to time, he shall also determine the rate of interest being earned on the retirement fund. He shall report his findings to the board.

History: En. 68-1804 by Sec. 21, Ch. 323, L. 1973.

#### CHAPTER 19—MANAGEMENT OF FUND—EMPLOYER AND EMPLOYEE CONTRIBUTIONS

##### Section

- 68-1901. Management of fund.
- 68-1902. Members' contributions—deduction from pay.
- 68-1903. Additional contributions allowed.
- 68-1904. Employer contribution to administrative expense.
- 68-1905. Refund of contributions on termination of service.
- 68-1906. Reinstatement after withdrawal of contributions—redeposit of contributions.
- 68-1907. Transfer of dormant savings account to pension fund.

**68-1901. Management of fund.** The retirement fund shall be managed as follows:

(1) The board of administration shall have exclusive control of the administration of the fund except as otherwise provided.

(2) The fund shall be invested by the state board of investments as part of the long-term investment fund.

(3) The department of administration shall deposit monthly in the state treasury all amounts received by it as provided in this act.

(4) The state treasurer shall be custodian of the retirement fund, subject to the exclusive control of the board of administration as to the administration thereof and the board of investments as to the investment thereof.

(5) Interest earned on any cash deposit in a bank by the state treasurer and income on other assets constituting a part of the fund shall be paid into the fund as received. Income, of whatever nature, earned on the retirement fund during any fiscal year, in excess of the interest credited to contributions during that year shall be retained in the fund as a reserve against deficiencies in interest earned in other years, losses under investments, and other contingencies.

(6) Except as herein provided, no member and no employee of the department of administration shall have any interest direct, or indirect, in the making of any investment, or in the gains or profits accruing therefrom. And no member or employee of the department directly or indirectly, for himself or as an agent or partner of others, may borrow any of its funds or deposits, nor shall any member or employee in any manner use the same except to make such current and necessary payments as are authorized by the department nor shall any member or employee of the department become an endorser or surety as to or in any manner an obligor for investments for the retirement system.

History: En. 68-1901 by Sec. 22, Ch. 323, L. 1973.

**68-1902. Members' contributions—deduction from pay.** The normal contribution of each member shall be equal to five and seventy-five one hundredths per cent (5.75%) of his compensation. The chief administrative officer of each employer shall deduct the contribution from the compensation of each member and remit the total of the contributions to the board. Payment of salaries or wages less the contribution shall be full and complete discharge and acquittance of all claims and demands whatsoever for the service rendered by members during the period covered by the payment, except their claims to the benefits to which they may be entitled under the provisions of this act.

History: En. 68-1902 by Sec. 23, Ch. 323, L. 1973.

**68-1903. Additional contributions allowed.** Subject to the rules and regulations promulgated by the board of administration, any member may elect to contribute at rates in excess of those provided for in section 68-1902 for the purpose of providing additional benefits, but the exercise of this privilege by a member shall not place on the state or contracting employer any additional financial obligation. The board, upon application

shall furnish to the member information concerning the nature and amount of additional benefits to be provided by additional contributions.

History: En. 68-1903 by Sec. 24, Ch. 323, L. 1973.

**68-1904. Employer contribution to administrative expense.** In addition to the contributions elsewhere provided in this act, on July 1 of each year each employer shall contribute on behalf of each member then in its employ a membership fee of one dollar (\$1). These fees together with other moneys appropriated for that purpose shall be used for the purpose of defraying the administrative expense of this act.

History: En. 68-1904 by Sec. 25, Ch. 323, L. 1973.

**68-1905. Refund of contributions on termination of service.** (1) Except as provided in this section, any member whose service has been discontinued by other than death or retirement shall be paid such part of his accumulated contributions as he requests. If he has ten (10) or more years of creditable service, the amount paid shall include regular interest on the accumulated normal contributions. If he has less than ten (10) years of service and he does not re-enter service for a period of five (5) years after such discontinuance, he shall automatically be paid any portion of his total accumulated contributions not previously withdrawn. Upon qualification for any other benefit under this act, a member having any accumulated normal contributions standing to his credit in the retirement fund shall receive the benefit based upon the creditable service during which such contributions were made. The board may, in its discretion, withhold for not more than one (1) year after a member last rendered service, all or part of his accumulated normal contributions if after a previous discontinuance of service he withdrew all or part of his normal contributions and failed to redeposit such withdrawn amount in the retirement fund as provided in section 68-1906.

(2) Should the state service of any member, regardless of years of service, be discontinued other than by death or retirement after July 1, 1974, he shall be paid such part of his accumulated contributions, including regular interest thereon, as he requests.

History: En. 68-1905 by Sec. 26, Ch. 323, L. 1973.

**68-1906. Reinstatement after withdrawal of contributions—redeposit of contributions.** Except as otherwise provided in this section, any person who again becomes a member subsequent to the refund of his accumulated normal contributions after a termination of previous membership is considered a new member without credit for any previous membership service, and he may reinstate that membership service by redepositing, within two (2) years of his re-entering the retirement system, the sum of the accumulated normal contributions which were refunded to him at the last termination of his membership plus the interest which would have been credited to his account had the refund not taken place. If he makes this redeposit, his membership shall be the same as if unbroken

by such last termination. Regardless of whether this redeposit is made, the documents held by the retirement system as executed by the member prior to termination of membership shall be held by the system for the same purposes as prior to termination, and beneficiaries nominated in the documents shall continue unchanged until changed as provided herein.

History: En. 68-1906 by Sec. 27, Ch. 323, L. 1973.

**68-1907. Transfer of dormant savings account to pension fund.** The board may in its discretion transfer the savings account of a member to the pension accumulation fund if the account has been dormant for a period of ten (10) years provided that no right of the member shall be jeopardized by such transfer and the savings account shall be transferred to the member's name upon subsequent re-entry to membership.

History: En. 68-1907 by Sec. 28, Ch. 323, L. 1973.

#### CHAPTER 20—SERVICE RETIREMENT ELIGIBILITY AND ALLOWANCES

- Section  
 68-2001. Eligibility for service retirement—early retirement.  
 68-2002. Time for commencement of allowance.  
 68-2003. Annual amount of retirement allowance payable.  
 68-2004. Excess allowance to members on July 1, 1973.  
 68-2005. Early retirement allowance.

**68-2001. Eligibility for service retirement—early retirement.** (1) A member who has attained the age of sixty (60) and completed ten (10) years of creditable service is eligible for service retirement. A member who has attained age sixty-five (65) is eligible for service retirement regardless of his years of creditable service. A member who has completed thirty (30) years or more of state service is eligible for service retirement regardless of his age.

(2) A member who is not eligible for service retirement but has attained age fifty-five (55) and completed ten (10) years of creditable service is eligible for early retirement.

History: En. 68-2001 by Sec. 29, Ch. 323, L. 1973.

**68-2002. Time for commencement of allowance.** The board shall grant a retirement allowance to any member who has fulfilled the eligibility requirements of section 68-2001 and filed the appropriate written application. The retirement allowance shall commence on the day following the member's last day of membership service or on the first day of the month in which his application is filed with the board, whichever is later.

History: En. 68-2002 by Sec. 30, Ch. 323, L. 1973.

**68-2003. Annual amount of retirement allowance payable.** The annual amount of retirement allowance payable to a member following his service retirement is the sum of (1), (2) and (3) as follows:



(1) an annuity which is the actuarial equivalent of his accumulated additional contributions on the day his retirement allowance commences;

(2) one sixty-fifth (1/65) of his final compensation multiplied by the number of years of his creditable service;

(3) any retirement allowance payable under section 68-2004.

History: En. 68-2003 by Sec. 31, Ch. 323, L. 1973.

**68-2004. Excess allowance to members on July 1, 1973.** The annual amount of retirement allowance payable to a person who was a member on July 1, 1973, shall be increased by the excess, if any, of the greater of (1) or (2) as follows over subsection (2) of section 68-2003:

(1) the sum of a pension for prior service equal to one sixty-fifth (1/65) of his final compensation multiplied by the number of years of his prior service, an annuity which is the actuarial equivalent of his accumulated normal contributions with regular interest to the day his retirement allowance commences, and a pension for membership service equal to such annuity;

(2) if the member attained age seventy (70) in service, the lesser of four hundred eighty dollars (\$480) or one-half (1/2) of his final compensation.

History: En. 68-2004 by Sec. 32, Ch. 323, L. 1973.

**68-2005. Early retirement allowance.** The annual amount of retirement allowance payable to a member following his early retirement is the actuarial equivalent of the accrued portion of the service retirement allowance which would have been payable to him commencing at age sixty (60) pursuant to section 68-2003.

History: En. 68-2005 by Sec. 33, Ch. 323, L. 1973.

#### CHAPTER 21—DISABILITY RETIREMENT ELIGIBILITY AND ALLOWANCE

##### Section

68-2101. Disability retirement eligibility—definitions—medical examinations—hearings—waiver.

68-2102. Application for disability retirement allowance.

68-2103. Annual allowance for duty-related disability—reduction for workmen's compensation.

68-2104. Annual allowance for nonduty-related disability—reduction for misconduct.

**68-2101. Disability retirement eligibility—definitions—medical examinations—hearings—waiver.** (1) A member who has not reached seventy (70) years of age but has become disabled for duty-related reasons, as defined in subsections (3) and (4) of this section, is eligible for disability retirement.

(2) A member who is not eligible for service or early retirement but has completed ten (10) years of creditable service and has become disabled while in active service for other than duty-related reasons, as

defined in subsections (3) and (4) of this section, is eligible for disability retirement.

(3) "Disabled" means unable to perform his duties by reason of physical or mental incapacity.

(4) "Duty-related" means as a result of an injury or disease arising out of or in the course of his employment with an employer.

(5) "Injury" means a tangible happening of a traumatic nature from an unexpected cause, or unusual strain, resulting in either external or internal physical harm, and such physical conditions as result therefrom, and excluding disease not traceable to injury.

(6) The board shall determine whether a member has become disabled and whether a disabled member became disabled for duty-related reasons. In the discharge of its duty regarding such determinations, the board, any member thereof or any duly authorized representative of the board shall have power to order medical examinations, conduct hearings, administer oath and affirmations, take depositions, certify to official acts and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary as evidence in connection with a claim for disability retirement. The board shall secure medical service and advice necessary to carry out the purposes of this section and of sections 68-2201 and 68-2202 and shall pay for those medical services and advice compensation the board deems reasonable.

(7) A member eligible for early retirement may conditionally waive such eligibility by written application, such waiver to be effective only upon approval by the board of his application for disability retirement.

**History:** En. 68-2101 by Sec. 34, Ch. 323, L. 1973.

#### DECISIONS UNDER FORMER LAW

##### **Incapacity Not Result of Employment**

District court improperly reversed decision of board which refused relator's claim for an occupational disability retirement allowance based upon job-related disability caused by adverse working conditions and granted relator ordinary disability retirement allowance since district

court substituted its judgment for that of board and since "disease" as used in former section 68-901, did not include "personality disorders, anxiety reactions, or difficulties in getting along with one's superiors or fellow workers." State ex rel. Bailey v. Grande, 154 M 437, 465 P 2d 334.

**68-2102. Application for disability retirement allowance.** The board shall grant a retirement allowance to any member who has fulfilled the eligibility requirements of section 68-2101 and duly filed the appropriate written application. An application may be filed on a member's behalf by the head of the office or department in which the member is or was last employed or by any other person on behalf of the member, or the board upon its own motion may make the application. Application must be made within four (4) full months after the member's discontinuance of service unless the member is disabled continuously from the date of discontinuance of service to the date of the application.

The retirement allowance payable to a member who has become disabled shall commence on the day following the member's last day of membership service.

History: En. 68-2102 by Sec. 35, Ch. 323, L. 1973.

**68-2103. Annual allowance for duty-related disability—reduction for workmen's compensation.** The annual amount of retirement allowance payable to a member eligible for disability retirement for duty-related reasons is fifty per cent (50%) of his final compensation; provided, however, that the annual amount of retirement allowance shall be twenty-five per cent (25%) of final compensation for any period during which the member has been awarded compensation by the workmen's compensation division, whether or not such compensation is received in periodic payments or in a lump sum; provided further, that the annual amount of retirement allowance shall revert to fifty per cent (50%) of final compensation at the end of such period.

History: En. 68-2103 by Sec. 36, Ch. 323, L. 1973.

**68-2104. Annual allowance for nonduty-related disability—reduction for misconduct.** The annual amount of retirement allowance payable to a member eligible for disability retirement for other than duty-related reasons is the sum of (1), (2) and (3) as follows:

(1) an annuity which is the actuarial equivalent of his accumulated additional contributions on the day his retirement allowance commences;

(2) an annuity which is the actuarial equivalent of his accumulated normal contributions with normal interest to the day his retirement allowance commences;

(3) if, in the opinion of the board, the disability is not due to intemperance, willful misconduct or violation of law on the part of the member, a pension which is the lesser of (a) or (b) as follows:

(a) a pension which, together with the annuity provided under (2), shall make the retirement allowance equal to ninety per cent (90%) of one sixty-fifth (1/65) of his final compensation multiplied by his years of creditable service;

(b) a pension equal to twenty-five per cent (25%) of his final compensation.

History: En. 68-2104 by Sec. 37, Ch. 323, L. 1973.

#### CHAPTER 22—REDUCTION OR CANCELLATION OF ALLOWANCE

##### Section

68-2201. Medical examination of disability retiree—cancellation and reinstatement if retiree capable—refund of contributions.

68-2202. Disability allowance reduced by earnings.

68-2203. Optional retirement allowance.

68-2204. Cancellation of retirement allowance upon re-employment.

**68-2201. Medical examination of disability retiree—cancellation and reinstatement if retiree capable—refund of contributions.** (1) The board

may, at its pleasure, require the recipient of a retirement allowance because of disability to undergo medical examination. The examination shall be made by a physician or surgeon appointed by the board, at the place of residence of the recipient or another place mutually agreed upon. Upon the basis of the examination the board shall determine whether said recipient is unable, by reason of physical or mental incapacity, to perform either the duties of the position held by him when he was retired or the duties proposed to be assigned to him. If the board determines that said recipient is not so incapacitated or if the recipient refuses to submit to medical examination, his retirement allowance shall be canceled.

(2) Any person whose retirement allowance is so canceled shall be reinstated to the position held by him immediately before his retirement or to a position in the same classification with duties within his capacity, if he had been an employee of the state or of the university. If he had been an employee of a contracting employer, the board shall notify the proper official of the contracting employer that the retirement allowance has been canceled and that the former employee is eligible for reinstatement to duty. The fact that he was retired for disability shall not prejudice any right to reinstatement to duty which he may have or claim to have.

(3) If any person whose retirement allowance is so canceled is not re-employed in a position subject to the retirement system, his service shall be deemed to be discontinued coincident with his retirement allowance for the purposes of section 68-1905.

History: En. 68-2201 by Sec. 38, Ch. 323, L. 1973.

**68-2202. Disability allowance reduced by earnings.** Should the recipient of a retirement allowance because of disability engage in a gainful occupation during any month other than as an employee as defined in section 68-1503, the amount of his pension for that month shall be reduced to an amount which, when added to the compensation earned by him in that occupation, shall not exceed the amount of his monthly compensation at the time of his retirement.

History: En. 68-2202 by Sec. 39, Ch. 323, L. 1973.

**68-2203. Optional retirement allowance.** (1) The retirement allowance of a member who so elects shall be converted, in lieu of all other benefits under this act, into an optional retirement allowance which is the actuarial equivalent of such other allowance. The optional retirement allowance is a reduced amount payable during the member's lifetime with a subsequent benefit as follows:

(a) Option 1—a death benefit to the member's beneficiary equal to the excess, if any, of the member's accumulated contributions with regular interest to the day his retirement allowance commenced over the total of his retirement allowance payments.

(b) Option 2—a continuation of the reduced retirement allowance during the lifetime of his named contingent annuitant.

(c) Option 3—a continuation of one-half ( $\frac{1}{2}$ ) of the reduced retirement allowance during the lifetime of his named contingent annuitant.

(d) Option 4—an actuarial equivalent benefit based on the life of a single designated beneficiary.

(e) Option 5—such other actuarially equivalent benefit as shall be approved by the board.

(2) Election of any optional retirement allowance shall be by written application filed prior to the first payment of the regular retirement allowance. The contingent annuitant named by the member must have an insurable interest in the life of the member.

(3) If either the member or his contingent annuitant should die before the member has received the first payment under option 2 or 3, the election of such option shall automatically be canceled.

(4) If a member dies after retirement and within thirty (30) days from the date his election or changed election of an optional retirement allowance is received by the board, then said election is void and of no effect, and the death shall be considered as that of a member before retirement.

History: En. 68-2203 by Sec. 40, Ch. 323, L. 1973.

**68-2204. Cancellation of retirement allowance upon re-employment.** Any person receiving a retirement allowance who becomes an employee shall be considered reinstated from retirement and his retirement allowance shall be canceled. Upon subsequent retirement he shall be entitled to receive a recalculated benefit as provided in section 68-2003. Such recalculated benefit shall be based on his creditable service accumulated at the time of his previous retirement plus any creditable service accumulated subsequent to his re-employment. Except as otherwise expressly provided by law, he shall receive the benefit of provisions enacted subsequent to his initial retirement only if he accrues at least two (2) years of creditable service subsequent to his reinstatement and then only with respect to such creditable service.

History: En. 68-2204 by Sec. 41, Ch. 323, L. 1973.

#### CHAPTER 23—DEATH BENEFITS

##### Section

- 68-2301. Death benefits—eligibility.
- 68-2302. Amount of death benefit.
- 68-2303. Election of optional death benefit by beneficiary.
- 68-2304. Survivorship allowance elected by beneficiary.
- 68-2305. Amount of survivorship allowance.

**68-2301. Death benefits—eligibility.** The board shall grant a death benefit to the beneficiary of any member or former member who dies in any of the following statuses:

- (1) while in service;
- (2) within four (4) months after the discontinuance of service but before retirement;

(3) while a recipient of a retirement allowance because of disability, if such allowance has been in effect less than four (4) months;

(4) while disabled, as defined in section 68-2101, if he has been continuously so disabled from the discontinuance of his service but he is not receiving a retirement allowance because of the disability.

History: En. 68-2301 by Sec. 42, Ch. 323, L. 1973.

**68-2302. Amount of death benefit.** The amount of death benefit is the sum of (1) and (2), as follows:

(1) the member's accumulated contributions, together with regular interest on the accumulated normal contributions to the date of the member's death;

(2) an amount equal to one-twelfth (1/12) of the compensation received by the member during the last twelve (12) months of such compensation multiplied by the smaller of six (6) or the number of years of his creditable service; provided, however, that this portion of the death benefit is not payable if the board receives a certification from the workmen's compensation division of the state of Montana that it is paying compensation because the member's death resulted from injury or disease arising out of or in the course of employment.

History: En. 68-2302 by Sec. 43, Ch. 323, L. 1973.

**68-2303. Election of optional death benefit by beneficiary.** A member or his beneficiary after his death may elect to have the death benefit paid in an actuarially equivalent form subject to such rules and regulations as the board may adopt. Election of an optional death benefit shall be by written application.

History: En. 68-2303 by Sec. 44, Ch. 323, L. 1973.

**68-2304. Survivorship allowance elected by beneficiary.** A beneficiary eligible to receive a death benefit may elect a survivorship allowance instead if all of the following conditions are met:

(1) the member on behalf of whom the death benefit is payable was eligible for service retirement or early retirement;

(2) the beneficiary is a natural person of legal age with an insurable interest in the deceased at the time of his death;

(3) the beneficiary elects the survivorship allowance within ninety (90) days of receipt of notice from the board that he is eligible to receive the death benefit. Election shall be by written application.

History: En. 68-2304 by Sec. 45, Ch. 323, L. 1973.

**68-2305. Amount of survivorship allowance.** The annual amount of survivorship allowance payable to a member's beneficiary shall be the same as the optional retirement allowance would have been if the member

had retired immediately prior to his death after having elected an option 4 retirement allowance with the beneficiary as the contingent annuitant.

History: En. 68-2305 by Sec. 46, Ch. 323, L. 1973.

#### CHAPTER 24—BENEFICIARIES

##### Section

68-2401. Designation of beneficiary—effect of no designation.

68-2402. Minor beneficiaries—small amounts paid to custodian.

**68-2401. Designation of beneficiary—effect of no designation. (1)**  
The beneficiary of a member shall be such person as the member shall so designate in the appropriate written application. A member may revoke such designation and name a different beneficiary by filing a revised written instrument with the board. If no living beneficiary is designated, the estate of the member shall be the beneficiary. If the estate would not be probated but for the amount due from the retirement system, all of the amount due, including retirement allowances accrued but not received prior to death, shall be paid directly without probate to the surviving next of kin of the deceased, or the guardians of said survivor's estate, share and share alike, payment to be made in the same order in which the following groups are listed:

- (a) husband or wife, or
- (b) children, or
- (c) father and mother, or
- (d) grandchildren, or
- (e) brothers and sisters, or
- (f) nieces and nephews.

(2) No payment shall be made to persons included in any of said groups if at the date of payment there be living persons in any of the groups preceding it, as listed. Payment shall be made upon receipt from said persons of an affidavit, upon a form supplied by the retirement board, that there are no living individuals in the groups preceding it and that the estate of the deceased will not be probated. The payment shall be in full and complete discharge and acquittance of the board and system on account of said death.

(3) If a member's beneficiary cannot be found within ninety (90) days of the member's death or if the estate of the member is his beneficiary, the board in its discretion may pay all or a portion of the death benefit to the undertaker who conducted the funeral of the member or to any person or organization who paid the undertaker; provided, however, the amount so paid by the board shall not exceed the funeral expenses or the portion of such expenses paid by the person or organization respectively, all as evidenced by the sworn itemized statement of the undertaker and by other documents the board may require. The payment shall be in full and complete discharge and acquittance of the board and system up to the amount so paid, anything in this act to the contrary notwithstanding.

History: En. 68-2401 by Sec. 47, Ch. 323, L. 1973.

**68-2402. Minor beneficiaries—small amounts paid to custodian.** If any benefit from the system not to exceed five hundred dollars (\$500) is payable to a minor who has no guardian of his estate, the benefit may be paid to the person entitled to the custody of a minor to hold for the minor upon execution and filing with the board of a written statement by such person that the total estate of the minor does not exceed one thousand dollars (\$1,000) in value. The payment shall be in full and complete discharge and acquittance of the board and system on account of said benefit. The person shall account to the minor for the money when the minor reaches the age of majority.

History: En. 68-2402 by Sec. 48, Ch. 323, L. 1973.

#### CHAPTER 25—ADMINISTRATION OF CONTRIBUTIONS AND ALLOWANCES

##### Section

- 68-2501. Monthly payments—combining installments.
- 68-2502. Allowances exempt from execution, taxes, creditor process.
- 68-2503. Estimate of allowance when information incomplete.
- 68-2504. Employer contribution rates—actuarial determination.
- 68-2505. Payment of state contributions—budget and appropriations.
- 68-2506. Transfers between funds.
- 68-2507. Payment of contributions by contracting employer.
- 68-2508. Budget act superseded.
- 68-2509. Adjustment of errors in payments.
- 68-2510. Federally subsidized employees eligible—national guardsmen.
- 68-2511. Transfer of credits to and from teachers' retirement system.
- 68-2512. Reports by employers on status of employees.
- 68-2513. Cost-of-living increases.
- 68-2514. Retention of previously conferred benefits.

**68-2501. Monthly payments—combining installments.** A retirement allowance or survivorship allowance granted under the provisions of this act shall be payable in monthly installments, except that the board at its discretion may convert payments of less than twenty dollars (\$20) per month to larger periodic payments which are the actuarial equivalent of such smaller payments, but which occur less frequently. If payments of at least twenty dollars (\$20) per year are not so payable, the payment may be commuted into a single sum. A smaller pro rata amount may be paid for part of a month when the retirement allowance begins after the first day of the month or ends before the last day of the month.

History: En. 68-2501 by Sec. 49, Ch. 323, L. 1973.

**68-2502. Allowances exempt from execution, taxes, creditor process.** The right of a person to a retirement allowance or any other benefit under this act and the moneys in the fund created under this act shall not be subject to execution, garnishment, attachment, state or municipal taxes, or any other process whatsoever, and shall be unassignable except as in this act specifically provided.

History: En. 68-2502 by Sec. 50, Ch. 323, L. 1973.

**68-2503. Estimate of allowance when information incomplete.** If it shall be impracticable for the board of administration to determine from



the records the length of service, the compensation or the age of any members, or if any member refuses or fails to give the board a statement of his state service, his compensation or his age, the said board may estimate, for the purposes of this act, such length of service, compensation or age.

**History:** En. 68-2503 by Sec. 51, Ch. 323, L. 1973.

**68-2504. Employer contribution rates—actuarial determination.** (1) Each employer shall contribute to the cost of benefits under the system. The amount of the employer contributions shall be computed by applying to member's compensation the sum of the current service contribution rate and the unfunded liability contribution rate. The sum of these rates shall be four and six-tenths per cent (4.6%) from July 1, 1973, to June 30, 1975, and four and nine-tenths per cent (4.9%) from July 1, 1975, and thereafter.

(2) The actuary shall determine the current service contribution rate to be that level percentage of the present value of the future compensation of the average new member entering the system which equals the then present value of the excess of all prospective benefits in respect of such member over the member's own normal contributions.

(3) The actuary shall determine the minimum unfunded liability contribution rate to be that level percentage of the present value of the prospective compensation of all members for the forty (40) year period following the date of the determination which is equal to the unfunded liability on that date. The unfunded liability at any time is the excess of the present value of all future benefits payable in respect of all persons then entitled to benefits under the system over the sum of the retirement fund and the present values of the future current service contributions and normal contributions payable in respect of all such persons.

**History:** En. 68-2504 by Sec. 52, Ch. 323, L. 1973.

**68-2505. Payment of state contributions—budget and appropriations.**

(1) No later than the tenth day of each month, each department, board, commission, bureau or other agency of the state shall certify to the state auditor all contributions required of such unit and to its employees under this act on the basis of compensation paid during the previous month, including any contributions payable with respect to members absent in the armed forces of the United States. The state auditor shall thereupon draw a warrant upon the state treasurer for such contributions. The warrant shall be drawn to the credit of the retirement fund on the funds appropriated to that unit.

(2) Every state employer shall include in his budget and request for legislative appropriations an amount necessary to defray the state's part of the costs of this act for employees in their respective departments, and to the end that the legislature may make definite appropriation for the cost

incurred by each employer whose employees are within the retirement system created by this act.

History: En. 68-2505 by Sec. 53, Ch. 323, L. 1973.

**68-2506. Transfers between funds.** Any fund out of which payments are made under the provisions of this act may be reimbursed to the extent of such payments by transfer of a sufficient sum for such reimbursement from another fund or funds under the control of the same disbursing officer. The disbursing officer shall certify to the state auditor amount or amounts to be thus transferred, the fund or funds from and to which the transfer is to be made, and the auditor shall thereupon make the transfer as directed in the certificate.

History: En. 68-2506 by Sec. 54, Ch. 323, L. 1973.

**68-2507. Payment of contributions by contracting employer.** Between the first and twentieth day of each month, each contracting employer shall remit to the public employees' retirement system all contributions required of the employer and its employees under this act on the basis of compensation paid during the previous month. These remittances shall be accompanied by such reports as are required by rules of the board.

History: En. 68-2507 by Sec. 55, Ch. 323, L. 1973.

**68-2508. Budget act superseded.** This act shall be valid and effective despite any provisions in the state budget act to the contrary.

History: En. 68-2508 by Sec. 56, Ch. 323, L. 1973.

**68-2509. Adjustment of errors in payments.** If more or less than the correct amount of contribution required by this act of a member, the state or a contracting employer is or has been paid, proper adjustment shall be made in connection with the subsequent payments, or such adjustments may be made by direct cash payments between the member, state or contracting employer in connection with whom the error was made, and the board. Adjustments to correct any other errors in payments to or by the board of administration may be made in the same manner.

History: En. 68-2509 by Sec. 57, Ch. 323, L. 1973.

**68-2510. Federally subsidized employees eligible—national guardsmen.**

(1) A person whose compensation is paid either fully or in part from federal funds, but who is not subject to the federal retirement system, is considered an employee and is entitled to all benefits and is required to make all employee contributions under the retirement system based upon the full salary received by such employee, including that portion of salary paid from federal funds.

(2) Each member of the Montana army and air national guard is considered an employee. Any such person who was an employee on July 1, 1961, or prior thereto and who has filed with the board an election not to

become a member may at anytime, while he is an employee, file with the board an election to become a member and receive credit for prior service under the provisions of section 68-1608.

History: En. 68-2510 by Sec. 58, Ch. 323, L. 1973.

**68-2511. Transfer of credits to and from teachers' retirement system.**

(1) For the purpose of this section, "system" means the public employees' retirement system of Montana or the teachers' retirement system of the state of Montana.

(2) Upon transfer of a person from being an employee under one system to being an employee in the other, there shall be transferred service credits, both prior and membership, as have not been forfeited by withdrawal, unless the forfeited credits shall have been reinstated as provided by law. The amounts transferred shall be determined by the boards of the systems by mutual agreement and be certified by the system from which the employee transfers. Any person who is concurrently employed by employers under both systems shall be entitled to establish credits or equities in each of the systems in accordance with and to the extent set forth in this act.

(3) Eligibility of any such person for a retirement allowance, death benefit or refund of contributions shall be governed by the provisions of the act creating the system to which the person last made contributions based upon the entire length of service for which he shall have been granted credit under both systems.

History: En. 68-2511 by Sec. 59, Ch. 323, L. 1973.

**68-2512. Reports by employers on status of employees.** The chief administrative officer of each employer shall furnish monthly reports to the board of administration showing any changes in status during the preceding month of the employer's members resulting from transfer, promotion, leave of absence, resignation, reinstatement, dismissal or death. The chief administrative officer shall furnish such additional information concerning the members as the board may require in the administration of the retirement system, including such services of the employer's office and departments as the board may request in connection with claims by members for benefits under the system.

History: En. 68-2512 by Sec. 60, Ch. 323, L. 1973.

**68-2513. Cost-of-living increases.** (1) "Index" for purposes of this section shall mean, for any calendar year, that year's annual average consumer price index for urban wage earners and clerical workers, all items (1957-1959=100) compiled by the bureau of labor statistics, United States department of labor, or successor agency.

(2) Effective July 1, 1973, every service or disability retirement allowance then payable to a retired member or to his beneficiary shall be increased by a percentage equal to the lesser of one-half (1/2) of the percentage increase in the index for 1972 from the index for 1970 or the

index for 1972 from the index for the calendar year preceding the effective date of retirement of the member.

(3) Effective July 1, 1973, every survivorship annuity then payable to a member's beneficiary shall be increased by a percentage equal to the lesser of one-half (1/2) of the percentage increase in the index for 1972 from the index for the calendar year 1970 or for the index for 1972 from the index for the calendar year preceding the date of death of the deceased member.

**History:** En. 68-2513 by Sec. 61, Ch. 323, L. 1973.

**68-2514. Retention of previously conferred benefits.** All benefits conferred upon members of the public employees' retirement system prior to the effective date of this act shall be retained for all person[s] who are members of the system on the effective date of this act.

**History:** En. 68-2514 by Sec. 62, Ch. 323, L. 1973.

**Compiler's Notes**

The compiler has inserted the bracketed letter "s."

**Repealing Clause**

Section 63 of Ch. 323, Laws 1973 read

"Sections 68-101, 68-102, 68-201, 68-202, 68-203, 68-301, 68-302, 68-303, 68-401 through 68-405, 68-501, 68-601, 68-602, 68-603, 68-701 through 68-710, 68-801, 68-802, 68-901, 68-902, 68-1001 through 68-1005, 68-1101, 68-1201 and 68-1301 through 68-1320, R. C. M. 1947, are repealed."

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